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Committee Report: Favorable with amendments
House action: Adopted with floor amendments
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CHAPTER _____

1 AN ACT concerning

2 ~~**Agriculture– Nutrient Management Plans - Suspension of Requirements**~~
3 ~~**Temporary Suspension of Enforcement of Penalty Provisions - Education**~~
4 ~~**Efforts and Report Required**~~

5 FOR the purpose of ~~suspending certain provisions and regulations regarding nutrient~~
6 ~~management plans for a certain period of time; requiring the Department of~~
7 ~~Agriculture to educate certain persons on the importance of nutrient~~
8 ~~management and seek certain cooperation; requiring the Nutrient Management~~
9 ~~Advisory Committee to study ways to educate certain persons on the importance~~
10 ~~of nutrient management and increase certain participation; requiring the~~
11 ~~Committee to submit prohibiting the enforcement of certain nutrient~~
12 ~~management penalty provisions under certain circumstances during a certain~~
13 ~~time period; repealing the requirement that a property owner or operator grant~~
14 ~~a certain right of entry to the Department of Agriculture under a certain~~
15 ~~circumstance; specifying that the Department's authorization to enter certain~~
16 ~~property is upon due notice; requiring the Department to enforce certain penalty~~
17 ~~provisions as of certain dates and under certain circumstances; requiring the~~
18 ~~Department to take certain actions to educate farm owners and operators and~~
19 ~~seek their voluntary participation in the nutrient management program;~~
20 ~~requiring the Department, in conjunction with the Nutrient Management~~
21 ~~Advisory Committee, to provide a certain report on or before a certain date;~~
22 ~~providing for the termination of certain provisions of this Act; and generally~~

1 relating to nutrient management plans.

2 BY repealing and reenacting, ~~without~~ with amendments,

3 Article - Agriculture

4 Section ~~8-801(a) and (c), 8-801.1(b), and 8-803.1~~ 8-801.1(b)(2)

5 Annotated Code of Maryland

6 (1999 Replacement Volume and 2002 Supplement)

7 BY ~~adding to~~ repealing and reenacting, without amendments,

8 Article - Agriculture

9 Section ~~8-808~~ 8-803.1

10 Annotated Code of Maryland

11 (1999 Replacement Volume and 2002 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article - Agriculture**

15 ~~8-801.~~

16 (a) ~~In this subtitle the following words have the meanings indicated.~~

17 (e) ~~"Nutrient management plan" means a plan prepared under this subtitle by
18 a certified nutrient management consultant to manage the amount, placement,
19 timing, and application of animal waste, commercial fertilizer, sludge, or other plant
20 nutrients to prevent pollution by transport of bioavailable nutrients and to maintain
21 productivity.~~

22 ~~8-801.1.~~

23 (b) (1) ~~Each nutrient management plan shall be filed with the Department:~~

24 (i) ~~When it is developed; and~~

25 (ii) ~~Each time it is updated.~~

26 8-801.1.

27 (b) (2) ~~Submission of the plan shall include a grant by the property owner or
28 operator to the Department of a right of entry~~ THE DEPARTMENT MAY ENTER on the
29 property to evaluate compliance with the plan as long as the Department:

30 (i) ~~Enters~~ UPON DUE NOTICE, ENTERS the property ~~in daylight~~
31 ~~hours~~ at a reasonable time that allows the property owner or operator the opportunity
32 to be present; and

33 (ii) Conducts its evaluation in a manner that minimizes any
34 inconvenience to the farmer.

1 (3) The Department shall maintain a copy of each nutrient management
2 plan for 3 years in a manner that protects the identity of the individual for whom the
3 nutrient management plan was prepared.

4 8-803.1.

5 (a) In this section, "gross income" means the actual income that is received in
6 a calendar year that results directly from the farm or agricultural use of the land.

7 (b) This section does not apply to:

8 (1) An agricultural operation with less than \$2,500 in gross income; or

9 (2) A livestock operation with less than eight animal units defined as
10 1,000 pounds of live animal weight per animal unit.

11 (c) The Governor shall provide sufficient funding in each fiscal year's budget
12 to:

13 (1) Assist in the development of nutrient management plans;

14 (2) Meet the technical assistance and evaluation requirements of this
15 section;

16 (3) Meet the State's requirements for the implementation of the Manure
17 Transportation Project under § 8-704.2 of this title; and

18 (4) Provide State assistance under the Maryland Agricultural Water
19 Quality Cost Share Program in the Department.

20 (d) (1) State cost sharing may be made available to farmers to help offset the
21 costs of having a nutrient management plan prepared by a certified nutrient
22 management consultant who is not employed by the federal, State, or a local
23 government.

24 (2) The Secretary of Agriculture shall adopt regulations authorizing the
25 disbursement of State cost sharing funds under this subsection.

26 (e) (1) By December 31, 2001, a person who, in operating a farm, uses
27 chemical fertilizer, shall have a nutrient management plan for nitrogen and
28 phosphorus that meets the requirements of this subtitle.

29 (2) (i) By December 31, 2001, a person who, in operating a farm, uses
30 sludge or animal manure, shall have a nutrient management plan for nitrogen.

31 (ii) By July 1, 2004, a person who, in operating a farm, uses sludge
32 or animal manure, shall have a nutrient management plan for nitrogen and
33 phosphorus.

1 (f) (1) By December 31, 2002, a person who, in operating a farm, uses
2 chemical fertilizer, shall comply with a nutrient management plan for nitrogen and
3 phosphorus that meets the requirements of this subtitle.

4 (2) (i) By December 31, 2002, a person who, in operating a farm, uses
5 sludge or animal manure, shall comply with a nutrient management plan for nitrogen
6 that meets the requirements of this subtitle.

7 (ii) By July 1, 2005, a person who, in operating a farm, uses sludge
8 or animal manure, shall comply with a nutrient management plan for nitrogen and
9 phosphorus that meets the requirements of this subtitle.

10 (g) A person may meet the requirements of subsection (e) of this section by
11 requesting, at least 60 days before the applicable date set forth in subsection (e) of
12 this section, the development of a nutrient management plan by a certified nutrient
13 management consultant.

14 (h) (1) If a person violates the provisions of subsection (e) of this section, the
15 Department shall notify the person that the person is in violation of the requirement
16 to have a nutrient management plan.

17 (2) After a reasonable period of time, if the person fails to have a
18 nutrient management plan, the person is subject to an administrative penalty not to
19 exceed \$250.

20 (i) (1) A person who violates any provision of subsection (f) of this section or
21 of any rule, regulation, or order adopted or issued under this section is subject to:

22 (i) For a first violation, a warning; and

23 (ii) For a second or subsequent violation, after an opportunity for a
24 hearing which may be waived in writing by the person accused of a violation, an
25 administrative penalty that may be imposed by the Department of Agriculture.

26 (2) The penalty imposed on a person under paragraph (1)(ii) of this
27 subsection shall be:

28 (i) Up to \$100 for each violation, but not exceeding \$2,000 per
29 farmer or operator per year; and

30 (ii) Assessed with consideration given to:

31 1. The willfulness of the violation, the extent to which the
32 existence of the violation was known to but uncorrected by the violator, and the extent
33 to which the violator exercised reasonable care;

34 2. Any actual harm to the environment or to human health;

35 3. The available technology and economic reasonableness of
36 controlling, reducing, or eliminating the violation; and

1 (a) (1) From June 1, 2003, through March 31, 2004, a penalty under §
2 8-803.1 of the Agriculture Article or any regulation adopted under the authority of §
3 8-803.1 of the Agriculture Article may not be assessed against an owner or operator of
4 a farm who:

5 (i) has implemented an approved nutrient management plan;

6 (ii) has submitted for approval a nutrient management plan
7 prepared by a certified nutrient management consultant; or

8 (iii) 1. submits a justification for delay form to the Department
9 on or before September 30, 2003; and

10 2. makes a good faith effort to formulate and submit a plan.

11 (2) Beginning on October 1, 2003, the Department of Agriculture shall
12 enforce the penalty provisions under § 8-803.1 of the Agriculture Article and
13 regulations adopted under the authority of § 8-803.1 of the Agriculture Article
14 against an owner or operator of a farm who has not submitted a justification for delay
15 form to the Department.

16 (3) Beginning on April 1, 2004, the Department of Agriculture shall
17 enforce the penalty provisions under § 8-803.1 of the Agriculture Article and
18 regulations adopted under the authority of § 8-803.1 of the Agriculture Article
19 against an owner or operator of a farm who has not submitted and is not
20 implementing a current nutrient management plan.

21 (b) The Department of Agriculture shall:

22 (1) for the benefit of any farm owner or operator or other interested
23 stakeholder who chooses to attend, conduct an educational forum during the summer
24 of 2003 that:

25 (i) includes the economic and water quality benefits of nutrient
26 management, the science of nutrient management, and nutrient management
27 techniques; and

28 (ii) offers assistance in the formulation and implementation of a
29 nutrient management plan;

30 (2) focus significant staff effort on personal outreach to farm owners or
31 operators who have been delayed in the formulation or implementation of a nutrient
32 management plan, including owners and operators of large and small farms; and

33 (3) on or before December 31, 2003, in conjunction with the Nutrient
34 Management Advisory Committee and in accordance with § 2-1246 of the State
35 Government Article, report to the General Assembly on the implementation of this
36 Act, including:

1 (i) number and types of activities conducted in accordance with the
2 requirements of this section and levels of participation by farm owners and operators;

3 (ii) progress actually achieved to date and progress anticipated by
4 July 1, 2004, in the enhancement of voluntary participation in the nutrient
5 management program; and

6 (iii) recommendations to streamline the nutrient management
7 program and more effectively use resources to minimize water quality risks.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
9 June 1, 2003. Section 2 of this Act shall remain effective for a period of 11 months and,
10 at the end of April 30, 2004, with no further action required by the General Assembly,
11 Section 2 this Act shall be abrogated and of no further force and effect.